

Town Council Meeting: 12 March 2007



Town of Garrett Park
PO Box 84
4600 Waverly Avenue
Garrett Park, MD 20896

Regular Meeting of Town Council
Garrett Park Town Hall
10814 Kenilworth Avenue
Garrett Park, MD 20896

MINUTES

Call to Order: Mayor Shawaker called the meeting to order at 8:00 PM. Present were Councilmembers Altar, Benjamin, Irons, Soltan, and Wegner. Also present were Administrator Pratt, Margaret Soltan of the *Bugle*, and a number of Town residents.

Approval of Agenda: The Agenda was approved as posted without objection.

Variance Hearings:

- 8:15 P.M.: 10801 Montrose Avenue – Abraham: Prior Non-Conforming Structure: Construction within the Setback Area – Councilmember Irons introduced Harry Gordon, Chair of the Setback Advisory Committee who presented the committee report prepared by Committee Member Ed Shawaker (Attachment A). Mr. Gordon noted that the construction covered by the variance took place in the setback area as a result of the property being a corner lot, thereby having two “front” setbacks, and that it does not increase lot coverage, being wholly under an existing deck. In response to questioning from Councilmembers Mr. Gordon further stated that he could not accurately calculate either the lot coverage or the floor-area ratio (FAR) for the entire structure because the plans submitted with the application did not accurately describe the dimensions of the structures on the lot. Councilmember Benjamin noted that this should not be a concern as both lot coverage and FAR appeared to be well within the required amounts. He also stated that this variance was very similar to two requests that had just been approved by the Council: a porch enclosure and a carport enclosure, both of which requested enclosure of structures which existed prior to the current setbacks. That notwithstanding, Councilman Wegner asked that in future, variances not be brought to the Council if adequate and correct documentation had not been provided by the homeowner. Councilmember Soltan proposed that the Council make the following Findings:

1. That the house in question is a prior non-conforming structure constructed prior to the adoption of the ordinance;
2. That the proposed construction is entirely contained under an existing porch;
3. That the building will comply fully with lot coverage and FAR requirements after the construction is completed;

Approved at the 14 May Town Council Meeting

4. That a portion of the proposed construction takes place within the regulated setback from Oxford Street, but does not alter the setback line of the house; and
5. That the proposed construction is in harmony with the intent of the ordinance.

After discussion, Councilmember Soltan **MOVED**

That the Council make the above-mentioned findings and grant the variance requested by the applicants, conditioned on their providing the Setback Advisory Committee with evidence that the house does not exceed lot cover or FAR required by the ordinance. The motion was seconded by Councilmember Benjamin and **PASSED** with Councilmembers Benjamin, Irons, Soltan, and Wegner voting "Aye" and Councilmember Altar voting "Nay."

- 8:30 P.M.: 4700 Clyde Avenue – Platais: Prior Non-Conforming Structure: Construction within the Setback Area – Councilmember Irons introduced Harry Gordon, Chair of the Setback Advisory Committee, who presented the committee's report (Attachment B). Mr. Gordon noted that the lot had special circumstances due to its shape and location as a corner lot, that the proposed new construction did not create a greater intrusion into the setback area, and, in response to a question from Councilmember Benjamin, further noted that the demolition of the entire 1947 addition did not require a Town demolition permit from the Town, being incidental to a building permit, and that the project fully complies with applicable county ordinances.

Councilmember Soltan proposed that the Council make the following Findings:

1. That the house in question is a prior non-conforming structure constructed prior to the adoption of the ordinance;
2. That the shape and location of the lot create special circumstances;
3. That the proposed construction does not increase the intrusion into the Clyde Avenue setback; and
4. That the proposed construction of an uncovered front porch that intrudes into the Clyde Avenue setback is in conformity with the ordinance.

After discussion, Councilmember Soltan **MOVED**

That the Council make the above-mentioned findings and grant the variance requested by the applicants with the condition that the new front porch shall always remain an open porch as required by Section 402 (b) (1.3) of the Garrett Park Code of Ordinances. Councilmember Irons seconded the motion, which **PASSED** with Councilmembers Benjamin, Irons, Soltan and Wegner voting "Aye" and Councilmember Altar abstaining.

Committee Reports: Councilmember Soltan reported that the Right of Ways Committee is reviewing a revised report and expects to have a draft in the near future for the Town Attorney to review.

Mayor's Report: Mayor Shawaker reported that she had recently testified in Annapolis regarding a bill that would permit municipal ownership of streetlights mounted on Pepco poles. The Mayor also announced that she had formed a new *ad hoc* committee named Neighbor's Essential Action Response or NEAR. The committee's purpose is to identify Town residents who are particularly vulnerable to bad weather, power outages, or other major problems and to develop appropriate responses that neighbors and the Town staff might make to prevent harm. The Mayor said she had asked Phyllis Kaufman, Barbara Thompson, Linda Knowles, and Kathy Gagnon to serve.

Councilmember's Reports:

- Councilmember Benjamin announced his appointment to the Metro Board of Directors by Governor O'Malley, subject to approval by the Maryland Senate. As he will be unable to serve in that position while being an elected official, Councilmember Benjamin submitted his resignation from the Council, effective upon approval of his appointment by the Senate. Mayor Shawaker and the other Councilmembers congratulated Councilmember Benjamin on his appointment and thanked him for his service to the Town. Councilmember Benjamin agreed to continue to work with the Council on the Capital Improvement Program and final approval of the FY 2008 budget.

Approval of Minutes:

- 02/12/2006 Regular Council Meeting – Councilmember Benjamin **MOVED**
That the minutes be approved as corrected. The motion was seconded by Councilmember Altar and **PASSED** unanimously

Action/Discussion:

- Appointment of Election Judges – Mayor Shawaker asked that the Council approve the appointment of Shirin Keyani, Judy Heyman, and Linda Knowles as election judges for the 2007 and 2008 elections, pursuant the Town Charter , Section 78-21. Councilmember Benjamin **MOVED**
That the Council approve the Mayor's appointment of election judges for the 2007 and 2008 elections. The motion was seconded by Councilmember Soltan and **PASSED** unanimously.
- Adoption of Ordinance 2007-01: Amending the FY 2007 Annual Operating Budget – Councilmember Benjamin **MOVED**
That Ordinance 2007-01 be adopted (The Ordinance is attached to these minutes). The motion was seconded by Councilmember Wegner and **PASSED** unanimously
- Introduction of Ordinance 2007-02: The FY 2008 Annual Operating & Capital Budget – Councilmember Benjamin **MOVED**
That Ordinance 2007-02 be introduced (The Ordinance is attached to these minutes). The motion was seconded by Councilmember Wegner and **PASSED** unanimously

- Capital Improvement Plan Review: Councilmember Benjamin reviewed with the Council the various reports provided by VIEW Engineering. After a brief discussion it was agreed to have a Council Workshop to discuss these reports and to provide feedback to VIEW. Councilmembers agreed to consult their schedules and to provide Administrator Pratt with a number of dates over the next two weeks so that a date for the workshop could be established.

Town Administrator Report: Town Administrator Pratt reviewed the Monthly Financials distributed to the Council.

Adjournment: The meeting adjourned at 9:45 PM

Respectfully submitted

[TOWN SEAL]

Edwin Pratt, Jr., Clerk-Treasurer

Attachment A

To: The Garrett Park Town Council

From: The Setback Advisory Committee (per Ed Shawaker)

Re: Variance Application for 10801 Montrose Avenue

John D. Abraham seeks a variance to extend a shed under an existing deck. This will enclose approximately 73 additional square feet of land.

The lot in question is on the corner of Montrose Avenue and Oxford Street. Because it is a corner lot, it is treated as having two front setbacks of 30 feet or more. See section 402(b)(1) of the town ordinances. The proposed construction is within the setback. The footprint of the house will not change and no structural changes will be made in the house.

Under Section 403(d)(1) an "existing building which was lawful when established, but which no longer conforms to the requirements of this Chapter, may continue as built and may be replaced or repaired, but may not be expanded, except to the extent that such expansion meets the requirements of this Chapter."

The standard for granting variances is set in Section 403(c) of the town ordinances. It requires that the applicant for a variance show, on the record, that

because of the unusual dimensions, shape, topography or other exceptional characteristics of the lot, the lot cannot accommodate the building sought to be erected if the setback requirements of Section 402 are strictly applied

and

the strict and literal application of Section 402 to the lot would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship on, the owner of the property.

The expansion of the shed is an expansion of the construction of the house and is located in a front setback. It therefore requires a variance. A majority of the committee does not see evidence of an unusually shaped lot nor do we know of peculiar or unusual practical difficulties or undue hardship on the owner of the property. A majority of the committee therefore does not affirmatively recommend the grant of a variance.

The issues in the previous paragraph, however, are for the Council to decide. In the last several months the Council has granted variances in other rather similar situations, e.g. 4508 Oxford and 11111 Rokeby. Consistency would probably counsel a grant of a variance here.

Attachment B

Subject: 4700 Clyde Avenue Variance Request - Recommendation from Setback Advisory Committee

Mayor Shawaker and Members of the Town Council

The Setback Advisory Committee has reviewed an application for a variance to permit the construction of an addition on the referenced property. The proposed construction also involves the partial demolition of a portion of the existing building to enable the addition to be built. We respectfully submit the following analysis and unanimous recommendation.

Background

The applicants proposed to demolish a portion of the existing main building on the referenced property and replace it with an addition. The existing main building on this corner property was completed prior to the implementation of the current zoning ordinances and does not conform with the required front yard setback on either the Rokeby or the Clyde Avenue frontage. The proposed addition would reduce, but not eliminate, the degree of nonconformance.

Analysis

The proposed construction will remove the portion of the existing building that is to the right (west) of the main entry as shown on the CAS site plan dated Oct 20, 2006. Please disregard the portions of this drawing that show the proposed addition and garage, since they do not relate to the current proposal. In place of the portion of the existing building that is removed, the owners propose to construct an addition that is set back further from the street than the existing building, which will reduce (but not eliminate) the degree of nonconformance with the front setback requirement. The CAS site plan dated Feb 27, 2007 accurately shows the relationship of the proposed addition to the front setback requirement. Please note that the main portion of the proposed addition is approximate on the established building line of 30.9', with the exception of a small entry vestibule, which extends about 2.5' past the front setback line. All of the proposed addition is set back further from the street than the existing building that is to be removed, except for the porch. The porch is allowed to extend up to 8.0' into the front setback, which is approximately what has been proposed.

There are two lots comprising this property, totaling 11,907 SF. The proposed lot coverage of the main building would be substantially less than 18%; therefore no variance is required for this aspect. The proposed construction conforms with the rear and side setback requirements.

Recommendation

This corner property has shallow depth from Clyde Avenue, limiting the proposed expansion of the existing building. Garrett Park ordinance 403(c) (1.1) establishes that the unusual dimensions and shape of the lot constitute the basis on which a variance may be granted. The proposed construction, while not fully conforming with the required

front setback, significantly reduces the extent of nonconformance compared to the existing construction, which aligns with the open space objectives of the Garrett Park ordinances. The Setback Advisory Committee respectfully recommends that this variance be granted.